

THE GLEANER;

OR,

MONTHLY MAGAZINE.

No. 9.

For May, 1809.

VOL. 1.

CONTENTS.

The Moderator, No. 6.....	391
Spanish letters, No. 1.....	394
A political extract.....	396
On the improvement of Roads, &c.....	397
Story of Mr. Friendly and his nephew.....	402
Lecture No. 1. on natural and experimental philosophy...	407

POETRY.

The magic of love.....	413
Lines written on the banks of Conestoga.....	414
Love song of Richard Dablerus.....	415
The parting.....	419
To a tear.....	420
The lady and the wasp.....	<i>ibid.</i>
Virtue and Vice.....	<i>ibid.</i>

REGISTER AND GAZETTE.

Judge Washington's charge, in the case of the U. S. {	421
against Michael Bright and others.	}
Meeting of congress, election of speaker of H. R. &c. .	333
President's message.....	434

STACY POTTS, JUN. *Editor.*

LANCASTER, (PENN.)

PRINTED BY WILLIAM GREER.

1809.

In order to make room for the communication of our correspondent, Greg. Grunt, we have been obliged to omit the 3d Canto of the Cornwalliad intended for this number, it will appear in our next.

The Gleaner ;
OR,
Monthly Magazine.

No. 9.

For May, 1809.

VOL. I.

FOR THE GLEANER.

THE MODERATOR, No. 6.

BOCKENDORF, the poor insane, who conceives himself to have been recently elected President of the United States, is not more happy, in that conceit, than I am in the character I have assumed. Quintin Ficklesome, esquire, N. S.! Moderator of the passions, and corrector of the vices and follies of this hair-brained age! Dear me! how assiduously the antiquarian of posterity, some thirty or forty centuries hence, will search for my writings.—But alas! like those of many other great men, they will be hard to find, and—of little consequence when they are found.

Why will they be hard to find? Because, (if the metaphors be not too bold) they are like pearls cast before swine; the readers are too insensible of their real merit and take no pains to preserve them. But why will they be of little consequence when they are found? Because, the weaknesses and extravagancies they are intended to banish, will, I hope, long before that time be done away and forgotten, and mankind will hardly believe their ancestors ever were so wicked or so foolish. And why then will they be so assiduously sought for? Because it is the disposition of some men (and will probably continue so) to collect, from the musty rubbish of former ages, curious trifles which might—just as well be suffered to moulder in their dusty repositories.

Yet these considerations, weighty as they are, will not discourage me from writing. The endeavour to do good is often as deserving of gratitude as the accomplishment of it. Again, the more numerous my essays are, the greater chance the antiquarian will have of obtaining some of them. These are, with me, sufficient reasons to persevere. But there are some wags (probably they may dread the lash of my satire) who assign another reason, and sarcastically alledge I am one of those, who

“.....*in spite*
“*Of nature and their stars, will write.*”

Let them enjoy their opinion. I shall not be the first author who has possessed, or thought he possessed, wit and genius, whose readers have thought, or professed to think, very differently. Apropos, a few observations on the subject of criticism.

The Romans, we are told, when they had advanced a person to triumph for his services, used to hire people to rail at him in order to make him as humble as they could. Something of this kind obtains in our commonwealth. But the Romans were under the necessity of *hiring* their railers, whereas the patriotism of our citizens is so transcendent—they voluntarily vilify the man who has done a public good, lest he should continue his services and become so conspicuous for his virtues as to destroy that equality we so proudly boast of. And thus it is in the republic of letters. No sooner has an author made his appearance and began to receive the plaudits of his readers but the horn of the critics is sounded: The pack is soon in full cry, and the poor author is so besprinkled and bedaubed that his best friends are almost ashamed to evince their friendship. If he has drawn his sentiments from nature, ten thousand to one but he is pronounced a plagiary. If he has any peculiarity in his style, he is affected. If he reasons closely, he is dull. If he is fanciful, he wants judgement. If ironical, they construe him seriously. He is too prolix or he is too concise, and poor Priscian is battered in every sentence.

But if after all people will read his works, the system of attack is changed. They cannot overcome him by exciting contempt or hatred, but they will if possible kill him with kindness. Those who lately abused him most unmercifully become his most sycophantic cringing admirers (History informs us similar manœuvring is sometimes practised by politicians as well as critics). He is now a standard of perfection in writing. His allusions to the ancient classics are so delightfully nice and correct, they prove him wonderfully profound. He paints nature in lovelier colours than nature ever possessed. His reasons are irrefutable. In short, he is—more than human. This is the most dangerous species of criticism. For the expectations of the reader are raised to such a pitch it is impossible they can be realized, and he is rarely satisfied with what pleasure he receives.

Yet it often happens that the author's fame, if he is really deserving, increases in proportion to the hub-bub of the critics against him. We are apt to compassionate those who are too harshly traduced. The passions fade into each other like the colours of the rain-bow. Pity is but a shade from love, as the extreme of love borders upon jealousy. Some catch-penny writers, aware of this, have not scrupled to take advantage of

it and criticise their own works ; knowing that he who bought the text would wish to see the comment, and he who purchased the comment would have little satisfaction without the text :— Thus the sale of the one would promote the sale of the other.

None of these word-marshaling gentry have as yet done me the kindness of publicly noticing my essays, and, vain as I am, I have too much honour to play booty and attack myself. Besides, I believe they are preparing for it. I will give my reason for thinking so.

Some evenings ago Captain Brag, 'Squire Credulous, and myself, were taking a friendly glass of wine together at Mr. _____. The room in which we sat was separated, only by a board partition, from one in which several gentlemen meet weekly and call themselves "The Literati Society." This was their night of meeting and they were at business. The Captain had entered upon an account of his exploits during the late Indian war, which, as I had often heard him narrate them before, were not so entertaining to me as they always are to Mr. Credulous. I therefore lit my segar and leaned back against the partition, in an attitude of attention, but in fact with no anxiety to hear. Just at my ear there happened to be a knot-hole, and, as if my guardian angel had arranged it so on purpose, I could as distinctly hear the society as the Captain. I am thus particular lest the society might charge me with improperly prying into their secrets. Seated as I was I do not believe I should have listened to their discourse had not the Moderator been the subject. The curiosity of an author, to know what others say of his writings, is not to be restrained by little punctilios, and will, I have no doubt, be a sufficient excuse for my conduct.

"He is a conceited numscul," said one. "He will tell us he admitted that in his first number, and proclaimed it by adding N. S. to his name, which, by the by, is intended to deceive the *vulgar* and mimick *us* who have a legal right to affix *A. M. L. L. D. &c.* said another." Aye, and he might have said *A. S. S.* or *O. W. L.* with as much truth, thought I.—"His idea of writing counterparts to bacchanalian songs is borrowed from the circumstance of Carolus de Acquino and some others having written palinodes to the songs of Anacreon," said Tommy Bobadil (for I knew some of them by their voice). Now I thought no more of Carolus de Acquino when I suggested that hint, than Mr. Bobadil thinks of his God, and I wonder how he came to know any thing about what he had written. After this the secretary, or some one of the members, read over my third number, one or more of them making animadversions on each sentence. "He affects to be witty—but how abominably stupid," said the first voice. "There is not an original idea from beginning to ending," said another. "By jingo," said

Dick Squash, "there is not a *word* in the whole essay but I'll *bet* you I can find in a very celebrated work my father wished me to study (but which I thought was too dull) entitled, "Johnson's Dictionary." Here I could not contain my risibility, but burst into a loud laugh. The Captain had progressed in his story, and at this instant, was describing a renounter he once had with two panthers, a wild-cat, and an Indian. He looked round at me with an appearance of dissatisfaction and exclaimed "by G— it is as true as preaching, Quin.!" "I believe every tittle of it," said Mr. Credulous. "I have no doubt it is substantially correct," said I (still thinking of Mr. Squash's discovery) "Then what the d—l do you laugh at," replied the Captain. "'Twas no laughing matter," added the 'Squire. I was obliged to explain and they both joined me in another hearty roar.

In these observations I ought not to forget to mention, there are some who take the trouble of reviewing a work from pure motives. They judiciously, and in a friendly manner, correct the faults and prune the wild exuberances of the author. Sentiment rather than expression is the object of their cognizance; and if the idea is sufficiently clear they are not displeased. The remarks of such men are useful.

.....

For the Gleaner.

Letters from a Spanish gentleman to his friends in Spain,—translated from the manuscript, by Menander, for the Gleaner.

LETTER, No. I.

Dear Don Digano,

Fate seems to have cast every malignant aspect of heaven into the horoscope of my existence.—*Mars* frowned with rage, *Saturn* brandished his fiery wand, and *Venus* poured into my plastic heart all her softest influence.—Yes, Digano, these rebel vagrants of the sky, have made of me, the veriest wretch, that ever existed between earth and heaven.—Did nature design me, only, as an emphatic emblem of what a wild, Heteroclite being she *could* form? or did the deities which inspire *reason* and *passion*, enter into such a furious yet equal combat at the moment of my birth, as to leave me, such a being as I am, a monument of their way-ward and wild stubbornness.

My father wishes me to return to Spain; he has written to me twice, with tenderness, and with promises of forgiveness for

all my past parental transgressions—but alas! how shall I answer him: his *mercy* came at a time, when hard relentless obduracy, would have been more agreeable to the state of my feelings. The unfortunate, ah!—it was not unfortunate,—attachment which I had formed in Spain, and for which I was forced to abandon my country, was indeed soon forgot or at least hushed, amidst the various novel scenes, and change of society of this new and wild country. But, “*Cælum, non animum mutant qui trans mare currunt*,”*—by crossing the ocean, we change only the climate, not the mind. The bosom that has once experienced the glowing warmth of love, that has once truly felt the influence of beauty, opens anew with joy, to every beam of loveliness; and, like a full formed rose bud, in the morning sun, it expands its every fold, to the sunshine of beauty. Indeed *reason*, with me, has ever held, but a transient supremacy; at present her throne is again deserted, and in this frenzied interregnum, all the lawless revelry of passion is up.

In short, my dear friend Digano, I have met with a damsel in this chilly clime, beautiful as the *Eliza* I left behind me, and mild as our autumns evening breezes.

One fair evening, taking my favourite *Petrarch* with me, I sallied from the village in which I had stayed for some time, to commune awhile with this congenial hearted poet, within some congenial scene of nature—I had scarcely got, to my usual scene of retreat, when I saw at a distance, a train of females, culling flowers; perhaps, to form wreaths of fondness for their lovers. As if magnetic attraction had worked upon my soul, I arose from my flowery seat, and approached the gay group. Some of them I knew, and others I had seen before; they were affable and gentle, and invited me to walk with them. I found some of them intelligent, beyond what I would have supposed to meet with, from the general vein of plebeian character which runs through the natives of this country. We talked of poetry, of rural scenes, and love; I read to them some passages of Petrarch's sonnets; they admired them, and sighed for the hapless poet, and the beautiful Laura. After passing on for some time, the loveliest of them all, with rolling blue eyes, and roses blooming on her cheeks, came tripping up to me with all the careless simplicity and winning witchery of a young Venus, blushing and smiling, presenting me with a *rose*.

When an innate predisposition, beautiful scenes of nature and the blandishments of poetry unite to warm the bosom; good heavens! what cannot female witchery do with man? 'Tis impossible to describe the feelings which I experienced when I took the rose from her fair hand—my rebel heart became frantic and

* *Horace, Ep. xi. l. 26.*

drove in torrents its crimson tide into my face. I faltered out a sentence of tributary compliments, and imprinted a kiss on the hand that was stretched out to me. O! Digano, when I propose to myself to return to my native clime, my heart is ready to abandon me in a rage. The wild effervescence of passion whirls me on, and God only knows when I shall again see the delightful orange groves of our loved country.

If I should get the use of my reason, by the time I next write to you, some observations on the manners of these hardy sons of Columbia may form (perhaps more agreeably to you) the subject of my letter. This, however, depends upon what females I will meet with.

Adieu my friend,

ALFONSO DE CASTALIA.

.....

POLITICAL EXTRACT.

(*From an old American Magazine.*)

There are many artifices by which the villains of the political world, both small and great, mislead the easy multitude who entrust them with power. But they all set out on the same plan, and with the same specious pretences for public good.

Thus *Pisistratus* subverted the government of *Athens*, and enslaved that wise and brave people, while they thought he was protecting them. The traitor pretended, that he was wounded by some conspirators against the state, while he opposed their wicked designs, and defended the liberties of his country. The honest citizens believed him, and in the overflowing zeal of their hearts, granted him a body of fifty men for his defence.

The supposed danger still increased, and the number of guards increased with it; until, at last, when the people began to think them formidable, they found it was too late to complain; and they had nothing to do, but tamely to submit to the *persecuted patriot*, who was now become a public and *powerful tyrant*.

Thus *Julius Cæsar*, by setting up the statues of *Marius*, who was reckoned a friend of the people, and by the unequalled magnificence of his entertainments, acquired so much popularity, that *Rome* gave him an army, and that army gave him the liberties of *Rome*.

These were traitors of the first magnitude, and they employed the slow arts of treachery no longer, than 'till they were prepared for acts of open violence. When the building was complete, they kicked down the useless scaffolding; and shewed, at once, the monument of liberty, and the castle of arbitrary power.

FOR THE GLEANER.

To improve our roads and facilitate the transportation of merchandise, between the extremes of our state, has always been an object worthy of consideration. The rival interests of the cities of New-York, Philadelphia, and Baltimore, render it peculiarly so at this time. The channel of trade, when once fixed, is not easily changed; it therefore behoves us to lose no advantage which our situation gives us. The readers of the Gleaner will receive some useful information, in the perusal of the following observations, on the utility and necessity of opening

THE EAST AND WEST ROAD.

THE important advantages to be derived from what is called the East and West road, seem so obvious, that to be convinced of them, it will suffice to cast an eye on the last edition of Mr. Howell's map of Pennsylvania, on which it is traced.

For want of roads, all that part of Pennsylvania, situate between the east and west lines of the state, and between the line of the state of New-York and a parallel thereto, about thirty miles to the south, (being about one fourth of the state) is in some parts very thinly inhabited, and in others almost a wilderness. Though it is well ascertained, that the soil, of the northern part of the state, is equally good with the other parts; and that it is traversed by waters by which its produce can be brought to market; yet one is astonished not to see a single thriving village in that section between the Allegheny river and the North-branch of Susquehanna. Owing to the want of roads it has been overlooked; and, Pennsylvania has witnessed her own inhabitants and others, emigrating to distant states, which, even on admitting a superior quality of soil, cannot vie with Pennsylvania for the advantages that result from her proximity to markets, to which her produce can be conveyed, and from which articles in exchange can be taken, at a very small expense.

The east and west road, after crossing the North-branch of Susquehanna, intersects the Susquehanna and Tioga turnpike, passes through Wellsborough, meets, and follows for about twelve miles, the navigable waters of Pine-creek, which empty into the West-branch of Susquehanna. It then crosses the Allegheny waters at Coudersport, Canoe-place of Allegheny, Smethsport, and at Warren. From all which places, the waters are navigable to New-Orleans: and the portage from the said western waters to eastern waters, does not exceed twenty-three miles.

The wild state of a country so good, so well watered, and so advantageously situated, must be attributed to the impossibility of getting to it. Some proprietors of lands have been at a great expense in opening parts of this vast tract, and in forwarding settlements. The terms and conditions upon which they have offered their lands for sale are very moderate; but, for want of an uniform plan, and, from an inadequacy of means for any great undertaking, the country remains in a most backward state.

The legislature, well aware of the importance of the east and west road, had it run and marked at the expense of \$ 2000; and subsequently appropriated, towards opening it, the county taxes on unseated lands and a part of the road taxes of 1808 and 1809, not otherwise appropriated.

The said road will tend, not only to open for settlement one fourth part of the state, now almost a wilderness, but will facilitate an intercourse between its remotest parts. It will also secure to it a considerable portion of the trade of the north-western counties of the state of New-York. It will be the means of importing into that quarter, a great quantity of iron, which will be given in exchange for salt, for which Pennsylvania has at present to give cash.

There is no ore west of the small lakes; iron is taken from Bellefonte to the state of New-York; and, it is supposed, that this trade will increase in consequence of a road lately cut by some land-holders, from the mouth of Drury-run,* on the west-branch of Susquehanna, to intersect the east and west road about five or six miles east of Coudersport, in the county of Potter. By this route iron can also be taken down the Allegheny river.

Besides these arguments, in favor of the east and west road, there is another, which appears to be conclusive for the necessity of opening it as quick as possible.

The city of Philadelphia carries on a trade, not only with the most western settlements of the state, but also, with the state of Ohio and the north-western territory, which are supplied by the way of Pittsburgh, to which place the carriage is expensive: and when the goods get there, they must be taken up the Allegheny and French creek; or, by a land-carriage, to the north-west part of Pennsylvania, to Presqu' isle, and the north part of the state of Ohio, &c.

By a view of the map of the United States, it will be seen that, this route is very circuitous.

The state of New-York expects that the turnpike, now mak-

* Drury-run is between Kettle-creek and Young-woman's creek.

ing, 'from the city of Hudson, on the North river, to lake Erie, (which it is to strike about twenty miles north-east of Presqu' isle) will be a means of supplying Presqu' isle, the north-western parts of the states of Pennsylvania and Ohio, the north-western territory, &c. &c. on better terms than can be done from Pittsburgh. It may be proper to explain on what foundation this expectation rests. We must first consider, whether it be easier to get to lake Erie from New-York, than to get to Pittsburgh from Philadelphia.

It is well known that there is no difficulty between New-York and the city of Hudson. From this latter place to lake Erie the distance is 296 miles by the turnpike; on which considerable progress has been made, even as far on as the Canister, a branch of the Susquehanna. The land carriage is shorter, by this route, than by Pittsburgh. And the country, through which this turnpike passes, is much more level and better than the country through which the road runs from Philadelphia to Pittsburgh. The winter to the north being less liable to changes, the snow remains much longer on the ground. These advantages render the transportation of goods much cheaper in New-York than in Pennsylvania.

It is therefore obvious that goods may be taken from New-York to lake Erie, as cheap as from Philadelphia to Pittsburgh. If so, how much more easy will it be to carry goods from lake Erie to the north-west parts of the states of Pennsylvania and Ohio, and the north-western territory, than it is to carry them from Pittsburgh to those places? The facility of transportation by this route is greater than by the other in proportion as the descending a river is to the ascending it. And on viewing the map of the United States, it will appear evident, that the settlements on the higher branches of the Sciota, Wabash, and Miami, will be supplied by the lakes.

This trade must belong to Philadelphia, New-York, or Montreal. This latter place has in its favour the convenience of navigation; but as men naturally give a preference to their own country, this sentiment will operate in favour of the United States. New-York lays a claim to this trade by the turnpike from Hudson to lake Erie: it now rests with Pennsylvania to secure to itself a large portion of this trade by facilitating a communication with lake Erie by the east and west road, which for many reasons is entitled to a preference over the road opening in the state of New-York.

The Pennsylvania road crosses many navigable streams of which advantage can be taken. They will greatly diminish the land carriage. The distance, by the east and west road, from the navigable waters of the Allegheny to the north branch of Susquehanna, is not above 100 miles. And from the Allegheny

to Pine-creek and the Synemahoning, which empty into the west branch of Susquehanna, not above 23 miles. The Allegheny river is known to be one of the finest streams in the United States. French creek and Conewango afford a good navigation to within a short distance of lake Erie.

It is plain that all that part of Pennsylvania west of the Allegheny river and north of the Ohio, will be supplied from the head waters of the Allegheny river, either from Philadelphia, or from the city of Hudson. The distance from Hudson to the navigable waters of the Oswaye (a branch of the Allegheny) is about 220 miles. Cerestown, on the Oswaye, is about 20 miles south of the turnpike, which will not only serve for transporting goods from Hudson, but also salt from the south end of Seneca-lake, from which there are but 86 miles to Cerestown. From the following statement, it will be seen that, this route will have a decided preference over the route now taken to carry salt to Pittsburgh, &c. &c. &c.

The expense of carrying salt by the Oswaye will stand thus:

A barrel of salt at Onondago salt-works, at 56 cents per bushel—5 bushels, - - - - -	\$2 80
Carriage to the head of Seneca-lake to meet the turnpike, - - - - -	1 80
Carriage of 250 lb. being the weight of 5 bushels of salt, from the Seneca-lake to the highest navigable waters of the Allegheny, at \$1 25 per 100 weight for 86 miles, - - - - -	2 68
Carriage of a barrel down the Allegheny to Pittsburgh, 1	<hr/>
Nett cost of a barrel of salt at Pittsburgh, - - - - -	\$8 28
or per bushel, \$1 65.	

The other route, which is most in use at present, is by Oswego, Niagara, Presqu' isle, Le Bœuf, and French creek. It is so circuitous that salt has always been high on the Allegheny and at Pittsburgh. The route by the Seneca-lake, &c. will also have a great advantage from the few changes and modes of transport, there being but one stretch of 86 miles land-carriage between the Seneca-lake and the Allegheny waters. It is supposed that salt will be taken down to Pittsburgh, by this river, for 40 per centum less than by Oswego, Niagara, &c. The same argument stands good for the upper settlements in the north-west part of Pennsylvania.

At present salt costs in Philadelphia, per bushel, - -	\$1 25
Carriage of a bushel to Pittsburgh, - - - - -	3 50
Nett cost of a bushel at Pittsburgh, - - - - -	\$4 75

There is a good navigation up the Allegheny river, and there being but 23 miles portage to the navigable streams that empty into the west branch of the Susquehanna, the contiguous settlements will be supplied with salt, which in the present state of the country, must be expected rather from Onondago than from foreign parts: And Pennsylvania, in return for salt, has iron to give to the state of New-York, the western part of which has no ore.

There were made at Onondago, 96,000 bushels of salt in 1802; 91,000 in 1803; and 133,884 in 1804. And there is little doubt but what there might be enough made there and at other springs to supply a great part of the United States. Notwithstanding the wild state of the north part of Pennsylvania, goods have been taken from Philadelphia to the waters of the Allegheny river for \$4 per 100 weight.

What has been said is sufficient to show how advantageous the east and west road will be to the state at large, whether it be considered as a means of settling a vast tract of country, or as a sure mode of securing a trade to which its situation entitles it, and which, for want of proper exertions on her part, will fall to the share of her more active neighbour.

Pennsylvania has to contend with Baltimore, which is encroaching on the western trade by every exertion in her power, and which it will be impossible to prevent entirely. To make up for this loss, Pennsylvania must avail herself of the advantages her situation gives her, over New-York, for the trade of the north-western part of that state.

In order to remove any cause of jealousy on the part of the southern and central counties of Pennsylvania, it must be observed that the improvement of the north part of the state, will be a source of prosperity to the other parts which lie nearer to markets, and that all the towns and villages in the centre cannot attain to any prosperity, but by the improvement of the interior parts of the country.

The east and west road cannot interfere with what are called the southern and northern turnpike routes to Pittsburgh. The question is not, whether the north-western trade shall be carried on by the south, centre, or north of Pennsylvania, but whether it shall belong to Pennsylvania by means of the east and west road, or to New-York by the turnpike from Hudson? For it seems evident that the north-western trade must be carried on by one of these two routes.

The centre turnpike, the importance of which is well known, cannot answer the purposes expected from the east and west road through the northern counties. The latter, and no other, can vie with the New-York turnpike, for the north-western trade. The centre turnpike is too far south, to induce the western part

of New-York to adopt it: whereas the east and west road is much nearer to their turnpike, and the hopes of meeting with navigable waters will always take the trade that way. Besides, there certainly exists in Pennsylvania no nearer, nor more direct route, from the eastern states to the northern parts of the western states, or to the western navigable waters, than by the east and west road, for want of which, all travelling from the east will be through the state of New-York. By this road, Philadelphia will recover from the state of New-York as much as she loses by Baltimore.

As enough has been said to prove the necessity of completing the east and west road, it ought to be observed, that the appropriations of taxes, made by the act of 1808, and the mode contemplated by that act for opening the road, are inadequate to the object. The taxes of each year cannot be collected as soon as assessed—there always is a considerable delay in the payment of them; a stop is in consequence put to the work. For want of money in due time, the trustees, or commissioners, of each county, cannot provide provisions early in the season, and lose the opportunity of the waters to forward them.

Some counties have more means than others to progress on their part of the road; but what is done in one is of little use, if they do not keep a pace one with another. A road that is not travelled is soon overgrown with bushes and obstructed by fallen timber; and this must be the case with the unconnected parts of a road of such extent.

.....

STORY OF MR. FRIENDLY AND HIS NEPHEW.

PERHAPS few undertakings require attention to a greater variety of circumstances, or include more complicated labour, than that of a writer who addresses the public in a periodical paper, and invites persons of every station, capacity, disposition, and employment, to spend, in reading his lucubrations, some of those golden moments which they set apart from toil and solicitude.

He who writes to assist the student, of whatever class, has a much easier task and greater probability of success; for the attention of industry is surely more easily fixed than that of idleness: and he who teaches any science or art, by which wealth or honour may be acquired, is more likely to be heard than he who only solicits a change of amusement, and proposes an experiment which cannot be made without danger of disappointment.

The author who hopes to please the public, or, to use a more fashionable phrase, the town, without gratifying its vices, should

not only be able to exhibit familiar objects in a new light, to display truths that are not generally known, and to break up new veins in the mines of literature ; he must have skill to select such objects as the town is willing to regard, such truths as excite its curiosity, and such knowledge as it is solicitous to acquire.

But the speculative and recluse are apt to forget that the business and the entertainment of others are not the same with their own ; and are often surprized and disappointed to perceive, that what they communicate with eagerness and expectation of applause, is heard with too much indifference to be understood, and wearies those whom it was expected to delight and instruct.

Mr. George Friendly, while he was a student at Oxford, became possessed of a large estate by the death of his elder brother. Instead, therefore, of going up to London for preferment, he retired to the family-seat in the country ; and as he had acquired the habit of study and a strong relish for literature, he continued to live nearly in the same manner as at college ; he kept little company, had no pleasure in the sports of the field, and, being disappointed in his first addresses, would never marry.

His sister, the wife of a gentleman who farmed his own estate, had one son, whose name was John. Mr. Friendly directed that John should be put to a reputable school in the country, and promised to take care of his fortune. When the lad was about nineteen, his uncle declared his intention to send him to the university ; but first desired to see him, that he might know what proficiency he had made in the languages.— John, therefore, set out on a visit to his uncle, and was received with great affection : he was found to have acquired a reasonable knowledge of Latin and Greek ; and Mr. Friendly formed a very favourable opinion of his abilities, and determined to reward his diligence, and encourage him to perseverance.

One evening, therefore, he took him up into his study, and after directing him to sit down, "Cousin John," said he, "I have some sentiments to communicate to you, with which I know you will be pleased, for truth, like virtue, is never perceived but with delight." John, whose heart did not give a full assent to the truth of this proposition, found himself in circumstances which, by the mere force of habit, caused him to draw in a long breath through his nose, and at the same time, with a grin of exquisite sensibility, to scratch his head. "But my observations cousin," said his uncle, "have a necessary connection with a purpose that I have formed, and with which you shall also be acquainted. Draw your chair a little nearer.— The passions, cousin John, as they are naturally productive of

all pleasure, should, by reasonable beings, be also rendered subservient to a higher purpose. The love of variety, which is found in every breast, as it produces much pleasure, may also produce much knowledge. One of the principal advantages that are derived from wealth, is a power to gratify and improve this passion. The rich are not confined by labour to a particular spot, where the same ideas perpetually recur; they can fill the mind, either by travel or by study, with innumerable images, of which others have no conception. But it must be considered, that the pleasure of travelling does not arise from the sight of a dirty town, or from lodging at an inn; nor from any hedge or cottage that is passed on the road; nor from the confused objects that are half discovered in the distant prospect; nor from the series of well-built houses in a city, or the busy multitudes that swarm in the streets: but from the rapid succession of these objects to each other, and the number of ideas that are thrown in upon the mind." Mr. Friendly here paused for John's reply; and John, suddenly recollecting himself, said, "Very true."—"But how," said Mr. Friendly, "can this love of variety be directed to the acquisition of knowledge?" Here John wriggled in his seat, and again scratched his head: he was indeed something embarrassed by the question: but the old gentleman quickly put him out of his pain by answering it himself.—"Why, by a judicious choice of the variety that is to produce our entertainment. If the various doublings of a hare only, or the changes of a game at whist, have afforded the variety of the day; whatever has been the pleasure, improvement has been wanting. But if the different customs, the policy, the trade of nations, the variety of soils, the manner of culture, the disposition of individuals, or the rise or fall of a state, have been impressed upon the mind; besides the pleasure of the review, a power of creating new images is acquired. Fancy can combine the ideas which memory has treasured; and when they have been reviewed and regulated by judgement, some scheme will result by which commerce may be extended, agriculture improved, immorality restrained, and the prosperity of the state secured. Of this, cousin John, you was not wholly ignorant before." John acquiesced with a bow; for though he had been a little bewildered, yet he understood by the tone of voice with which his uncle concluded the last sentence, that such acquiescence was expected. "Upon this occasion," continued Mr. Friendly, "I must remark, though it is something foreign to my purpose, that variety has, by some philosophers, been considered, as affording not only the pleasure and improvement, but even the measure of life; for of time in the abstract we have no idea, and can conceive it only by the succession of ideas to each other. Thus, if we sleep without dreams, the

moment in which we awake appears immediately to succeed that in which we began to slumber."

A thicker gloom now fell upon John, and his countenance lengthened in proportion to his uncle's lecture, the end of which he perceived was now become more remote; for these remarks with respect to John, were not impressed with the signature of truth, nor did they reflect any idea of his own—they were not

*"Something whose truth convinc'd at sight we find,
That gives us back the image of our mind."*

POPE.

With respect to John therefore they had no characteristic of wit; and if they contained knowledge, it was knowledge which John had no wish to acquire. The old gentleman, however, proceeded thus with great deliberation:

"But though curiosity should be principally directed to useful purposes, yet it should not always be repressed or diverted, when the use is not immediate or apparent: for he who first perceived the magnetic attraction, and applied it to various experiments, probably intended nothing more than amusement; and when the polarity of the needle was discovered, it was not in the pursuit of any project to facilitate navigation. I am, therefore, now about to gratify your curiosity, cousin, with a view of London, and all the variety that it contains." Here John's countenance brightened; he roused himself on his seat, and looked eager with attention.

"As you have," continued his uncle, "applied with great diligence to your grammar learning, I doubt not but you have also read many of our best English authors, especially our immortal Shakspeare; and I am willing that, before you enter upon a course of academic study, you should see the theatre."—John was going to express his joy, when his uncle encreased it, by putting into his hand a bank-note of fifty pounds. "This," said he, "under the direction of a gentleman, to whom I shall recommend you, will furnish you with proper apparel, bear your expenses for a couple of months, and gratify you with all the entertainments of the town."

John could now bear some part in the conversation: he was much obliged to his uncle, and hoped he should live to make him amends; "For," says he, "one of our ushers, who was just returned from London before I left school, has made me long to see it: he says there is a man there who dances upon a wire no bigger than a packthread; and that there is a collection of all the strange creatures in the world."

John, who had uttered this with a broad grin, and expressed his delight from head to foot, was somewhat disconcerted when

his uncle told him coolly, that though he would not have him leave London without seeing every thing in it that might justly raise curiosity, yet he hoped his notice was not principally attracted by objects which could convey no instruction, inspire no noble sentiment, nor move one tender passion. "I mentioned" says he, "Shakspeare, that mighty genius, whose sentiments can never be exhausted, and in whom new beauties are discovered at every view. That you may derive yet greater delight and advantage from the representation of his pieces, I will read you some historical and critical notes that I have been making during twenty years, after having read the first edition of his works, and every commentator that has either illustrated or obscured his meaning." The old gentleman then taking out and wiping his spectacles, opened his bureau and produced the manuscripts. "I am now" said he, "about to confer a favour upon you, which I do not yet intend for any other; for as I shall continually enlarge this work, it will not be printed until I am dead." He then began to read, and John sat very silent, regaling himself with the anticipation of his own finery, the dexterity of the wire-dancer, and the variety of the savages that he was to visit in London. The old gentleman, who imagined that he was held motionless with attention, wonder, and delight, proceeded long in his lecture without once adverting to John for his explicit eulogium; but at the end of a favourite passage, which closed with a distich of his own poetry, he ventured to steal his eyes from the paper, and glancing them upon John, perceived he was fast asleep, with his mouth open, and the bank-note in his hand.

Friendly, after having gazed upon him a few moments with the utmost astonishment and indignation, snatched away the note; and having roused him with a denunciation of resentment that touched those passions which Shakspeare could not touch, he thrust him out of the room and shut the door upon him: he then locked up his manuscript; and, after having walked many times backward and forward with great haste, he looked at his watch, and perceiving it to be near one in the morning, retired to bed with as little propensity to sleep as he had now left to his nephew.

TO THE EDITOR OF THE GLEANER.

Sir,

Believing the following Analysis of a course of Lectures on natural and experimental philosophy, will be beneficial to many of the readers of the Gleaner, I request you will give them a place in that valuable Magazine. The whole is comprised in 12 numbers, one, or two of which, I trust, you may conveniently give monthly.

Yours,

PHILO.

—
LECTURE I.
—

On the general properties of Matter.

A hundred and seventy years are scarcely elapsed since the clouds of prejudice, which had long overspread the world, began to clear up, and men were convinced, by cultivating the sciences and attending to nature, that no *fanciful conjectures* could ever lead them to the true causes of those various phænomena that incessantly, and every where, meet the observer's eye; and that the narrow limits of the human understanding, confine the course of our researches to *one single path*—namely, that of *experiment*, or the *use of our senses*. Yet in this short period, natural philosophy hath arisen to a high pitch of improvement; and may with truth be said to have made much greater advances towards perfection since the experimental method was introduced, than in the many ages before.

Because many bodies are reducible to water, *this element* has been thought, by many able philosophers, to be the primary origin of all matter; and that bodies differ only as they contain more or less *particles* or *pores* differently disposed. We find, indeed, the decomposition of bodies, finite; being unable to carry it beyond a certain limit; if we attempt to go further, we are always stoped by substances in which we can produce *no change*, which are incapable of being resolved into others, and which stand as so many *firm barriers* obstructing our progress. These substances, or principles, have been generally pronounced to be *earth, air, fire, and water*, though it is well known, that *water* can be formed by inflaming *hydrogen* and *oxygen gas* in a close vessel, and modern chymistry has adopted several other elements.

Whatever the elements of matter may be, the particles of that matter are conceived to be infinitely divisible; too small to be seen, though magnified by the most powerful optical instru-

ments. A candle will put in motion a sphere of light of 4 miles in diameter, in a second of time. Two ounces of musk or assa-fœtida, nicely weighed, may lie exposed to the air, and have its particles carried off by it for a fortnight together, and yet it will not lose a thousandth part of a grain of its original weight. One pound of gold is capable of covering a wire of silver that will circumscribe the globe. A grain of copper dissolved in a gill of diluted acqua fortis, will cover as much polished iron with a fine skin of copper, as the acqua fortis will wet. Nay, Lewenhœck discovered with his microscope, more living animalculæ in the milt of one cod-fish, than there are men, women, and children, on the whole earth.

2dly. The matter of which these elements are formed is *impenetrably hard*. If we pound the most brittle substance to the most impalpable powder, its original particles still remain un-hurt. If water have no bed of air to fall upon, it will fall upon the glass in which it is enclosed like a piece of iron, and make a loud click; a column of air falling on the plate of an air-pump, will give a report as loud as a gun: Nay, elementary fire, subtile as it is, strikes the bones, in the electric shock, like a solid body; and lightning penetrates the hardest substances.

3dly. Matter is *inert*, i. e. can neither move nor stop of itself. A ball on the whirling-table, neither begins to move when the table moves, nor stops when the motion of the table is stopped. Give a sudden push to a bowl of water, and the fluid will fly over the bowl in a contrary direction; if you run swiftly with the bowl in your hand, and stop suddenly, the water will fly over the bowl the way it was going. The *inertia* increases as the quantity of matter. A man lying with a large anvil on his breast will not be hurt when a blacksmith strikes upon it with a large hammer, with all his strength; but if he had an anvil only a pound weight upon his breast, the first stroke of the blacksmith would kill him. The *vis inertiae* of the large anvil makes its resistance equal to the stroke of the hammer, so that the anvil may be said to strike the hammer as forcibly as the hammer strikes it; and hence the difficulty of putting large bodies in motion. These are but small instances of those three laws of nature which Sir Isaac Newton found universal, viz. *That matter is perfectly indifferent to either rest or motion. 2dly. That bodies move in proportion to the force that acts on them. And 3dly. That action and re-action are equal and contrary.*

4thly. Matter *attracts and is attracted*; i. e. all parts of terrestrial matter have a tendency towards each other. A plumb-line on the side of a mountain is drawn out of its perpendicular by the attraction of the mountain. Two cork balls swimming on water, run together with an accelerated motion, and stick together. Water rises above its level against the sides of the

bowl which holds it; and also in capillary or small tubes: And hence the reason why water rises in sponge, sand, between glass planes, &c. for all these may be conceived as made up of capillary tubes. Two planes of lead, marble, glass, iron, &c. thrust together, stick so closely, that excessive force alone can separate them. 'Tis this *attraction of cohesion* that makes all bodies cohere, or maintain any distinct form; and as some parts of matter attract more forcibly than others, iron becomes heavier, and more compact, than wood; gold and platina have more particles in less room than any other metal; lead is different from stone, because its particles attract one another more forcibly; so that all that variety which we see in both mineral, animal, and vegetable substances, arises from the different combinations of the elements of matter, the different degree of attraction in the particles of each, and the different disposition of the pores, or interstices, that are between the particles of which they are composed. For the individual particles of the heaviest and lightest bodies are all of the same weight, as may be proved by dropping a piece of gold, and a feather, down a tall glass that has no air in it to resist their passage. Fire can destroy this cohesive quality in bodies, for a time, but makes no alteration in the original particles of bodies. It will insinuate itself into gold, and separate its particles, so as to make it a fluid. Water and air are kept in a state of fluidity by heat. Fire increases (perhaps causes) the repulsive qualities of all bodies. Metals swell with a small degree of heat, as may be proved by the pyrometer. All nature is kept in motion by it; even blocks and stones swell by the heat of the day, and contract by the cold of the night. It gives water so repulsive a quality, that it flies off in steam. Air is so swelled by it, that to keep up its equilibrium, it is perpetually agitated by winds and storms. Fire is the only *essential fluid*, and the cause of fluidity in other bodies, by separating their parts. 'Tis said, "where the sphere of attraction ends, repulsion begins." The north pole of a magnet, at one-tenth of an inch from a suspended needle, attracts it; but at five-tenths from it, it repels it. A glass tube rubbed with a dry hand, will alternately attract and repel feathers, leaf-gold, and other light bodies. A small needle will lie on the surface of water by its repulsion; flies run over it without wetting their feet, and a drop of oil will be sustained by its repulsion, without ever touching the surface of the water. The rays of light are said to be repelled from the surface of a looking-glass, &c. but fire, either in an active or latent state, is the general cause of both repulsion and elasticity.

5thly. *Elective attraction*, or the tendency which *one* part of matter has to unite with some other *particular* part in preference to every other part of matter, forms the grand basis of

chymistry.—Thus, water rushes into union with spirit, but not with oil.—Acids have the strongest affinity to fire and alkali.—Air attracts water with greater avidity than salt, so that fresh water is absorbed by it from the surface of a salt sea, &c. Of the elective kind of attraction also, is that of the magnet, because it only attracts iron, steel, and itself; some hold magnetism and electricity as relations, because steel struck by lightning, or a strong shock of electricity, acquires polarity and magnetic attraction. One Magnus, a shepherd, it is said, first discovered this wonderful stone from its sticking to the iron in his sandals, and from him it had its name: Its attraction is at two opposite parts, called its poles, and if the stone were broken into a thousand pieces, each piece would have its attracting pole: This attraction is strongest in contact, and diminishes by a proportion not yet found out; but that point of a stone which attracts one end of a touched needle, will repel the other.—Flavius Gio, of Naples, about 500 years ago, first discovered that a piece of steel rubbed on it, and then suspended, had the property of pointing north and south, and thence applied it to navigation. 200 years after the variation was discovered by Sebastian Cabot. But, by the first accurate observation made at London in the year 1580, it was found to be one point of the compass, or 11 degrees 15 minutes, easterly. In 1622 it was 6 degrees east; in 1634 it was 4 degrees 5 minutes east and so continued to decrease until the year 1657, when the needle coincided with the true meridian. After which time the variation became westwardly and has ever since increased to the westward. In 1672 it was 2 degrees 30 minutes west. In 1683 it was 4 degrees 30 minutes west; and, according to late experiments it was about 24 degrees west: but how far it will continue to move westwardly, time and observations must discover. A line of no variation at present passes serpentine northward up the Atlantic Ocean, touches Brazil, and passes over the Bahama Islands, through South-Carolina, Canada, over the Western lake, and terminates at the north magnetical pole, situated about 30 degrees from that of the earth, in the meridian of California.—From thence the *line of no variation* proceeds over or near the earth's north pole, inclining easterly over Siberia, Tartary, China, the Ladrone Isles, and new Holland, and then arrives at the south magnetic pole, situated to the south-east of Van Dieman's land, about latitude 60 degrees south, and 150 degrees east longitude from London. These lines, as well as poles, move westward at present; and Captain Cook, in his last voyage, came so near to the south magnetic pole, that his compass needle turned half round in 24 hours sailing—and the dipping needle stood almost perpendicular. If a piece of steel, of spring temper, be balanced on a point horizontally, so soon as it has received magnetic

virtue, it dips or inclines, so as to point in a chord towards the north or south magnetic pole of the earth: But if equidistant from both, it continues horizontal, like a balanced bar. Moved from one end to the other of a long artificial magnet, it exhibits the same appearance.

The theory of making *artificial magnets* is derived from an *effluvium* supposed to flow from one pole of the magnet to the other,—the existence of which is made very probable, by steel filings scattered over a plate of window glass, with a *bar magnet* under it, when the effluvium in its passage from one pole to the other influences the filings into many parallel and beatiful curves. If two pieces of steel, *spring temper*, made in shape of horse-shoes, have their ends put together; and then two *bar magnets* just separated, and of opposite poles, or a *horse-shoe or natural magnet* be rubbed over them all the same way, *polarity* and *attraction* will be communicated to the steel; but if the two pieces be put together, so that the two repelling ends are joined, they attract strongly: And hence several bars thus united form a very strong magnet.—If a piece of iron, as a *conductor*, be put between the two poles, the magnet will long retain its virtue, particularly if it hang loose so that it can turn itself north and south.—Lay four small bars of steel touching one another in a line, lengthwise; slide one pole of a magnet from the right hand to the left over them several times, and they will be good magnets: But if then you slide the same pole over them from the left hand to the right, the magnetic virtue will be entirely taken from them. *Fire* and *rust* destroy the power of these magnets, and time will weaken it, if a conductor of iron or steel do not form a magnetic circuit for the effluvium to pass through. To recall the decreased virtue of a magnet, hang a large *sand-bag* to the iron adhering to it, and keep every day increasing the sand. To give the virtue to a *knife*, draw it over either pole from hilt to point several times.

That the earth is magnetical is more than probable, from the vast quantity of ferruginous matter it contains; and because the magnetic poles (though not opposite) affect a dipping needle in the same manner as an ordinary magnet. The dip in England is about 75° below the horizon; and all iron standing with that inclination, or perpendicular, acquires magnetism; (probably by standing in the direction of the earth's magnetic effluvium). A poker held *above* a small compass (and inclining 75°) will attract by its knob the south pole of the needle; but held *under* the compass with the same inclination, the knob will repel it. For the poles of the poker become changed by their change of position.

Heat is the most powerful agent in nature, and principally in the decomposition of bodies. It is the only *essential fluid* in

nature, and the cause of fluidity in other bodies, by separating their parts ; hence, even air itself may become solid when deprived of the heat it contains, as bodies of the most difficult fusion become fluid when penetrated by a sufficient quantity of the particles of heat. *All* bodies become hot by the approach of ignited bodies, and by friction ; we find, however, that *light, heat, and electric fluid*, have so many qualities in common with *fire*, that hereafter it may probably be found they are all but modifications of the same principle. Rubbing, or friction, in *all* bodies produces *heat* and *electricity* ; and both these dilate bodies, help vegetation, germination, evaporation, motion of the blood, the growth of the *fœtus*, and the hatching of eggs. Heat and electricity both reduce and melt metals ; and bodies that receive *heat* with difficulty, receive *electricity* so, &c. May not the rays of the sun be electricity in their emanation from the sun, light in our atmosphere, and heat in the earth, by a chymical combination with the particles of the earth and air ? All bodies have more or less affinity to heat ; may not this diluted fire be absorbed by various bodies, and lie in a concrete form in them, till called forth from them by friction or combustion ? Experiments that favour this hypothesis are these ; 1st. Rays collected in the focus of a burning-glass, produce on opaque bodies the most intense heat that is producible by the art of man. 2d. Living vegetables imbibe light (as nutrition) from the air, and part with it back again into the air, in the act of combustion, boiling, or putrefaction ; (for rotten wood, putrid fish, the *ignis fatuus* ; indeed all animal and vegetable substances, are luminous while decompounding by putrefaction)—which is but parting with the *caloric* and *light* that was a constituent part of these bodies whilst in health. 3d. Bodies in the act of *delivering* heat to the air, or any other affinitive menstruum, are *universally hot* ;—hence the heat of a common fire, inflamed gunpowder, &c.—The *heat* of effervescent mixtures, such as diluted vitriolic acid and iron filings :—Copper and diluted nitrous acid :—Iron filings, water, sulphur, &c.

This principle (called *caloric* in the language of modern chymistry) is the grand antagonist of the attraction of cohesion. These two opposing powers keep Nature in a state of perpetual motion. When the attractive force is strongest, the body continues in a state of solidity ; but if, on the contrary, heat have so far removed the particles of it, as to place them beyond the sphere of attraction, they lose their adhesion, and the body becomes fluid. Water when cooled below 32 degrees of Fahrenheit's thermometer becomes solid, and is called ice. Above that temperature, its particles not being held together, it becomes liquid ; but when raised to the height of 212 degrees,

its particles give way to the repulsive power of fire, fly off in vapour, and assume an æriform state: the same may be affirmed of all bodies in nature. But as no vessels can contain this subtile fluid, as it escapes through every thing, it is difficult to define it, but by its effects; the pressure of the atmosphere checks it in part, and prevents fluids from flying off in steam, or gas, along with it. By surrouding bodies, and being interspersed among the particles of bodies (according as those particles are arranged or disposed by that polarity which takes place when a body passes from the fluid to the solid state) the body is said to have a capacity for receiving, retaining, or parting with caloric, or fire. When this repulsion overcomes the adhesion of fluids, and the pressure of the atmosphere, the caloric flies off with the vapour, and the fluid is cooled;—hence, the cold produced by evaporations of all kinds. Ether, beer, &c. boil when in an exhausted receiver, and sink the thermometer. Spirit of wine boils in vacuo, by the heat of the hand, producing intense cold. Snow and sea-salt mixed, attract heat from neighboring or touching bodies, producing ice in a hot room; and by Glauber and ammoniacal salts, being mixed with spirit of nitre, quicksilver may be frozen into a hard metal. Hence we see why fire, going into a latent state, produces cold; and into an active state heat; and why the blood (in a healthy state) retains the same heat in cold and hot situations: For evaporation cools both the earth and the human body.

From some things feeling colder than others, we find a difference in the conducting powers of bodies; for some convey the heat from the hand, and almost benumb it, as water, metals, &c. while others feel warm, as wool, cotton, &c. though when tried by the thermometer, may be found all of the same temperature.

Poetry.

.....
FOR THE GLEANER.

WHEN my heart was in bloom, and to nature expanded,
I wander'd through groves, and I wistfully sigh'd;
Yet I knew not what magical spell had enchanted,
The throne of my bosom, while fondly I cried;

“Ah, streams! why to me flow your swelling waves clearer?
“Ye roses, why glow with a splendor more gay?

“And why is each object more charming and dearer,
“And shines to my heart with a livelier ray?”

’Twas thus as I sigh’d, by the current as wandering,
I espy’d on the pansied banks of the stream
MARIA, (’midst roses, with careless step sauntering,)
Wave garlands of love, while her song cheer’d the scene.

With the gay airy bound, of a Venus, came tripping
MARIA, with cherub-lips smiling so sweet,
And gave me a *rose*, that with love’s dew was dripping,
And vow’d, “ ’t has no thorn, no, Evander, indeed.”—

Ah ! little I knew, when the heart and the season,
Concert to invite each intrusion of love,
How soon from her throne, the grave guardian, reason,
Flies off in more temperate regions to rove.

I took the gay rose and I kiss’d it so dearly,
It breath’d such a fragrance ! ’twas heaven to prove !
I blush’d, and she blush’d, O ! I then saw too clearly,
The magic I felt was, the magic of love.

EVANDER.

—
For the Gleaner.

—
Written on the banks of Conestoga.

O’ER the green-spreading banks of this slow-winding stream,
In life’s playful morn, oft, I wander’d with glee ;
When nature yet smil’d to my soul, through each scene,
And the path of life’s way seem’d enchanting to me.

On yon moss-cover’d rock, where the stream softly laves
At its marginal base, winding slow through the vale,
Oft musing I sat, as I gaz’d in the waves,
And silently thought,—or breath’d words to the gale.

There where the wild rose, in the breeze, waves its head
And spreads sweetest fragrance around through these scenes,
Serene, oft I lay, on the moss’ verdent bed,
And follow’d the phantoms of youth’s fairy dreams.

And there is the rock, over-bending the flood
That weltering heaves its small billows along,
Where often, as angling, I patiently stood,
And watch’d the gay sports of the small funny throng.

'Twas here, O! loved spot, that my bosom first knew
 The rapture of feeling, unmix'd with alloy ;
 'Twas here, where my muse, first her gay fancies drew
 And ope'd on my soul a new heaven of joy.

EVANDER.

.....

For the Gleaner.

IT is sincerely hoped, that the readers of the following will not suppose it was intended as a burlesque upon the Poets and Fair-sex of the day ; Being personally acquainted with the Author, I have too good an opinion of his liberality to admit that he had the most distant desire either of discouraging the cultivation of the Belles Letters, or of wounding the feelings of the females ; but on the contrary, it is my opinion, that his address to Dorothy is the pure effusions of his Cupid-wounded heart, and his mention of the poets is to screen his conduct from censure, by holding up the gorgon-shield of fashion.

GREG. GRUNT.

NOW vernal gales, warm off the plains,
 Melt with love the hearts of swains ;
 Now each lad, with mouth in pucker
 In form of tadpole, or of sucker,
 Presses the cheeks of the coy misses,
 Thence sucking sweet nectarious kisses,
 And, joyous, revels round their noses
 Like flies in May day do round roses :
 Their hearts, though once as void of reason,
 And cold as ice in winter season,
 Do now swell up and overflow
 With scalding love effusions ; so
 I've oft seen water in a pot,
 When o'er the fire it grew too hot,
 From its sad ferment to get rid
 Push up a heavy iron lid,
 Then down the sides in torrents flow
 And bubbl'ing quench the fire below.
 Thus youth, when e'er by love oppress'd,
 To ease the pangs within his breast,
 Will blubber out poetic lays,
 In his angelic Delia's praise,
 And sing her charms in public paper,
 More sweet than tune of cat-gut scraper.

I too, though once my heels I free shook,
 Am now as fast as chub on fish hook ;
 My love has so completely charmed me,
 Of resolution so disarm'd me,

That after her I'm drag'd about
 Like bated bear, with ring through snout ;
 And on another if she smiles,
 Chagrin more rough than rasps or files
 Tears up my heart and hurts as much as
 If in 't ram-cats would sharp their clutches,
 "And forces me, as 't were in spite
 "Of nature and my stars to write ;"
 And to subdue her tyrant heart,
 Do borrow old Apollo's cart,
 Then crack my whip and rattle along
 In thund'ring "cataract of song,"
 And straight begin to batter and maul
 From round her heart the iron wall.
 Or (speaking more intelligible,) I, to indulge my itch to scribble,
 Do try with song to tickle her brain
 Through her thick iron perricrane ;
 So make my verse put poet's cloak on,
 Tho' outside's smooth yet inside's broken,
 If inside's nonsense, ne'ertheless
 She may esteem it for its dress.
 Thus modern Bucks, though void of sense
 As poet's pocket is of pence,
 A coat with huge black cape will put on,
 And silken tassels to each boot on ;
 With hair up straight as it can stand,
 He'll then strut forth with hat in hand ;
 He is the duce among the ladies,
 To tend on them his only trade is ;
 And if it hap that one among 'em
 With Cupid's darning-needle stung 'im
 Then how he'll grin, and strut, and bow,
 And grunt, and whine, like mother sow ;
 Like gander to his goose he'll chatter,
 Move where she will he's always at her :
 But for his acts they ne'er condemn him,
 A'll must be right 'cause he's a *gemman*.

I'll sing sublime her beauteous dress
 The greatest grace she does possess,
 For females now ('tis not denied,
 Do polish naught but the outside :
 And here and there, to help my verse on,
 I'll grace my lines off with her person :
 I'll raise my strains from where her toe is,
 Thence upwards mount 'bove where her nose is ;

And like a lark, as up I soar,
Still strive to strain my song the more,
Until I find, I exceed old Pope
Far as silk-ribbon does hemp-rope ;
I then resolve to lay my pen down,
And rest a while my music tendon.

THE SONG.

My Dor'thy is a charming creature,
No butterfly was ever neater,
She 's not a spot from tail to head
But what, in justice, may be said,
Without one critical objection,
To be a model of perfection.
But first, to sing her spangled shoes,
I must invoke my sing-song muse
To come and bring her bagpipe-bellows,
And with poetic rapture swell us :
Come muse ! and lend your power mighty
In form of *grog* or *aqua-vitæ*.
Come muse ! and with harmonic powers
Strew in my lines Parnassean flowers.

Now with the muse I start once more
To say what I should've said before,
That is ; her shoes of glossy blue,
Or red, or black, or varied hue,
Are always most enchanting neat,
With string bound on soles of her feet.

Next let us mount, from where each foot is,
Upwards, to sing her dress's beauties
Which round her body is so tight bound
It makes her look 's if she was hide-bound ;
Or else, her fragile frame you'd wonder
If she had feard 'twould fall asunder
And to prevent it hired a cooper
Like tub, or bucket, for to hoop her.
But ah ! to look a little higher,
It sets my insides all on fire ;
Her bosom there without a rag on,
And rings in ears like wheels of waggon,
Attracts my eyes, spite of my soul,
Like compass-needle to north pole :
My flut'ring heart no art can calm,
It bumps my ribs like batt'ring ram,

From whence I judge, without a doubt,
 That modern females have found out
 The observation to be true,
 Made by madam Montague,
 Who wish'd t' expose more of her sex
 Than merely elbows, breasts and necks,
 And said if they'd go unattir'd
 Their faces would be least admired.

But when I view her face, in jot
 I'm trammel'd in cupids gordian knot;
 Her scarlet lips and molish eyes,
 Do tear from men such harrow-tooth'd sighs
 That all confess her blinking opticks
 Forcible as, to dogs-heads, mopsticks,
 (When with the servants they aspire
 To take a seat by kitchen fire)
 All men are pierced, or 'tis a chance,
 With love-lead bullets at each glance,
 Through the front hair of tortured wig,
 That pendant curls like tail of pig.
 To shew her neck, of chesnut brown,
 Her hair's behind screw'd up on crown,
 Where it is pinn'd with curious stake
 Of teeth, more huge than garden rake.
 And then again, she's so enchanting,
 I with loves fever am set panting
 To see her creep in mammoth hat
 Like mice in holes at sight of cat,
 Striving to keep from dang'rous nails out
 Their bodies hide, but leave their tails out.

Now, having finish'd my epistle,
 I here give back my muse her whistle,
 In hopes this song may meet success,
 And gain my wish'd for happiness;
 If it her iron brows does mellow,
 And make her call me clever fellow,
 Then muse, I'll thank you for your music,
 That squeak'd, whizz'd, groan'd, until she grew sick
 With love, or other strange disease,
 And did her stubborn heart appease.
 Lo here I stop, but first will push
 On Dor'thy's patience one more wish;
 That is, that Hymen soon may pair us
 Most fervent prays,

RICHARD DABLERUS.

For the Gleaner.

THE PARTING.

Neighb. BLESS me ! Peggy what 's the matter,
Why is all this doleful clatter ?

Wife. Oh ! kind Sir, I've much to grieve me,
My poor man has sworn to leave me,
For the bloody field of slaughter,
Sworn to leave his wife and daughter.
Helpless child ! and faithful Peg !
Then may starve, or steal, or beg.

Husb. Faithful ! yes, the truth is told,
Thou hast been a faithful scold ;
Night and morning, late and early
Thou hast tongue-lash'd me severely ;
Neighbours twice a square might hear it,
But no longer I will bear it ;
Stunn'd to death by such a rattle ?
Rather let me die in battle
Fighting in a worthy cause,
For my country's rights and laws.

Neighb. Cease rash couple, cease your strife,
Husband still protect thy wife.

Husb. What ! and hen-peck'd here remain ?
Live all our squabbles o'er again ?
Peace and joy are mine but seldom,
So I'll leave the noisy beldam ;
In the tented field of honour
I shall think no more upon her.

Neighb. Wife obey thy husband's will
Peace and joy may crown ye still.

Wife. Well, kind neighbour, let the dunce
Have his wayward will for once ;
Do not plague yourself about him,
I can do as well without him ;
Let the lazy lubber go—
All my weeping 's, but—a shew.

O.

TO A TEAR.

Stay sparkling wand'rer! whither would'st thou rove,
 From the dark confines of thy sapphire cell?
 Why seek about that frozen shrine to dwell;
 Whose senseless tenant spurns the sights of love?

Would'st thou an icicle, forlorn unblest,
 Hang on a chilling statue, and bestow
 Thy brilliant lustre on a marble breast,
 Like a pale plannet o'er a waste of snow?

Stay abject trembler! stay; and on my cheek
 Quench the bright flame indignant pride illumes;
 Come e'er the conscious fire its rose consumes!
 Nor with ungrateful love a refuge seek!

A nobler task, pellucid gem, be thine,
 Than, petrified by scorn, to deck his myrtled shrine.

THE LADY AND THE WASP.

As Chloe with affected air
 Sat lolling in her easy chair,
 An amorous wasp around her flew
 Perch'd on her lip and sipt the dew;
 She frowns, she frets,—he makes reply,
 With love I burn, I rage, I die—
 She smiles, forgives—he claps his wings,
 But soon she finds, that wasps have stings.

Ladies that are with coxcombs great,
 Mourn their ill conduct soon or late.

Gentle manners, virtuous lives,
 Make easy husbands, happy wives;
 These are the only means we know
 To make a type of heaven below.

Angry manners, vicious lives
 Make wretched husbands, cursed wives;
 From whence such evils take their birth
 As make a very hell on earth.

Register and Gazette.

JUDGE WASHINGTON'S CHARGE.

In the circuit court of the United States, for the Pennsylvania district, April session 1809, present judges Washington and Peters.

United States, vs.

Michael Bright,
James Atkinson,
Charles Westfall,
Abraham Ogden,
Charles Hong,
William Cole,
Samuel Wilkins,
Daniel Phyle,
John Knipe.

IMPRESSED with the magnitude of the questions which have been discussed, we could have wished for more time to deliberate upon them, and for an opportunity to commit to writing the opinion which we have formed, that it might have been rendered more intelligible to you, and less susceptible of being misunderstood by others. But we could not postpone the charge without being guilty of the impropriety of suffering the jury to separate after the arguments of counsel were closed, or of keeping them together until Monday; a hardship which we could not think of imposing upon them. I shall proceed therefore, to state to you, in the best way I can, the opinion of the court upon this novel and interesting case.

It may not be improper, in the first place, to refresh your minds with a short history of the transactions which have led to the offence with which these defendants are charged; and to consequences which might have been of serious import to the nation.

Gideon Olmstead and three others, having fallen into the hands of the enemy, during the latter part of the year 1778, were put on board the sloop Active, at Jamaica, as prisoners of war; in order to be conducted to New York whither this vessel was destined with supplies for the British troops.

During the voyage, Olmstead and his companions, who had assisted in navigating the vessel, formed the bold design of taking her from the enemy; in which, with great hazard to themselves, they ultimately succeeded. Having confined in the cabin the officers, passengers, and most of the men, they steered

for some port in the United States, and had got within five miles of Egg-harbour, when captain Houston, commanding the brig Convention, belonging to the state of Pennsylvania, came up with them and captured the Active as prize. The sloop was conducted to Philadelphia, and libelled in the court of admiralty, established under an act of the legislature of that state.

Claims were filed by Olmstead and his associates, for the whole of the vessel and cargo, and by James Josiah, commander of a private armed vessel, which was in sight at the time of the capture by Houston, for a proportion of the prize. Depositions were taken in the cause.

A jury was empanelled to try it. The question of fact was, whether the enemy was completely subdued or not, by Olmstead and his companions, at the time when captain Houston came up with them. The jury, without stating a single fact, found a general verdict, for one fourth to Olmstead and his associates, and the residue to Houston and Josiah, to be divided according to law and to an agreement between them. From the sentence of the court upon this verdict, Olmstead appealed to the court of appeals in prize causes established by congress, where after a hearing of the parties the sentence of the admiralty court was reversed; the whole prize decreed to the appellants, and process was directed to issue from the court of admiralty, commanding the marshal to sell the vessel and cargo, and to pay over the nett proceeds to those claimants. The judge of the court of admiralty refused to acknowledge the jurisdiction of the court of appeals over a verdict found in the inferior court; directed the marshal to make the sale and to bring the proceeds into court. This was done; and the judge acknowledged the receipt of the money, on the marshal's return. In May 1779, George Ross, the judge of the court of admiralty, delivered over to David Rittenhouse, treasurer of this state, £ 11,496 9 9, in loan office certificates issued in his own name, being the proportion of the prize money to which the state was entitled by the sentence of the inferior court of admiralty. Rittenhouse at the same time executed a bond to Ross, obliging himself, his heirs, executors, &c. to restore the sum so paid in case Ross should, by due course of law, be compelled to pay the same according to the decree of the court of appeals. In the condition of this bond, the obliger is described as being treasurer of the state; and the money is stated as having been paid to him for the use of the state. Indents were issued to Rittenhouse on the above certificates, and these were afterwards funded, in the name of Rittenhouse for the benefit of those who might eventually appear to be entitled to them. After the death of Rittenhouse, these certificates, together with the interest thereon which had been received, came to the hands of Mrs. Sergeant and Mrs. Waters, his represen-

tatives. The paper which covered the certificates was endorsed in the hand writing of Mr. Rittenhouse with a memorandum declaring that they will be the property of Pennsylvania when the state released him from the bond he had given to George Ross, judge of the admiralty, for paying the 50 original certificates into the treasury as the state's share of the prize. No such release ever was given. The certificates thus remaining in the possession of the representatives of Rittenhouse, Olmstead filed his libel against them in the district court of Pennsylvania, praying execution of the decree of the court of appeals. Answers were filed by these ladies; but no claim was interposed nor any suggestion made of interest on the part of the state, and in January 1803, the court decreed in favour of the libellants. On the 2d of April in the same year, the legislature of Pennsylvania passed a law authorising the attorney-general, to require Mrs. Sergeant and Mrs. Waters to pay into the treasury the money, acknowledged by them in their answer in the district court to have been received, without regard to the decree of that court; and in case they should refuse, that a suit should be instituted against them in the name of the commonwealth, for the said monies. The governor was also required to protect the just rights of the state by any further measures he might deem necessary; and also to protect the persons and properties of those ladies from any process which might issue out of any federal court, in consequence of their obedience to this requisition; and further should give them a sufficient instrument of indemnification in case they should pay the money to the state. No further proceedings took place in the district court, for some time after the passage of this law. And when at length an application was made for process of execution, the judge of that court, with a very commendable degree of prudence, declined ordering it; with a view to bring before the supreme court of the United States a question so delicate in itself, and which was likely to produce the most serious consequences to the nation. Upon the application of Olmstead, the supreme court issued a mandamus to the judge of the district court, commanding him to execute the sentence pronounced by him in that case; or to shew cause to the contrary. The reasons for withholding the process assigned in answer to this writ, not being deemed sufficient by the supreme court, a peremptory mandamus was awarded. It may not be improper here to state, that no person appeared in the supreme court on the part of the state, or on that of Mrs. Sergeant and Mrs. Waters, and that no arguments were offered on the part of Olmstead. The idea which I understand has gone abroad, that the mandamus was awarded upon the single opinion of the chief justice, is too absurd to deserve a serious refutation. No instance of that sort ever

did or could occur, and in this particular case, I do not recollect that there was one dissentient from the opinion pronounced.

Process of execution having been awarded by the judge of the district court in obedience to the mandamus, the defendant, General Michael Bright, commanding a brigade of the militia of the commonwealth of Pennsylvania, received orders from the governor of the state—"Immediately to have in readiness such a portion of the militia under his command as might be necessary to execute the orders, and to employ them to protect and defend the persons and the property of the said Elizabeth Sergeant, and Esther Waters from and against any process founded on the decree of the said Richard Peters, judge of the district court of the United States aforesaid; and in virtue of which any officer under the direction of any court of the United States may attempt to attach the persons or the property of the said Elizabeth Sergeant and Esther Waters."

A guard was accordingly placed at the houses of Mrs. Sergeant and Mrs. Waters, and it has been fully proved, and is admitted, that the defendants, with a full knowledge of the character of the marshal of this district, and of his business, his commission and the process which he had to execute having been read to them, opposed, with muskets and bayonets, the persevering efforts of that officer to serve the writ; and by such resistance prevented him from serving it.

There is no dispute about the facts. The defendants have called no witnesses—and their defence is rested upon the lawfulness of the acts laid in the indictment.—They justify their conduct upon two grounds—1st. That the decree of the district court under which the process issued was *coram non judice*, and to all intents and purposes void; and 2dly. That though it were a valid and binding decree, still that they cannot be questioned criminally for acting in obedience to the orders of the governor of this state.

The decree of the district court is said to be void, for two reasons; first, because the court of appeals had not a power to reverse the sentence of the court of admiralty founded upon the verdict of a jury; and 2dly, because the state of Pennsylvania claims an interest in the subject which was in controversy in the district court.

The first question is, was the decree of the court of appeals void for want of jurisdiction of the case in which it was made? But first let me ask, can this be made a question, at the present day, before this or any other court in the United States? We consider it to be so firmly settled by the highest judicial authority in the nation, that it is not now to be questioned or shaken. The power of the court of appeals to re-examine and reverse or affirm the sentence of the courts of admiralty, established by

the different states, though founded upon the verdicts of juries, was first considered and decided in the case of Doan and Penhallow, in the supreme court of the United States. The jurisdiction of the court to re-examine the whole cause as to both law and fact, was considered as resulting from the national character of an appellate prize court, and not from any grant of power by the state from whose court the appeal had been taken. The right of the state to limit the court of appeals in the exercise of its jurisdiction, was determined to be totally inadmissible. The same question was considered by the supreme court upon motion for the mandamus, and decided to be settled and at rest. If it were necessary to give further support to the authority of these cases, the opinion of the supreme court of Pennsylvania in Ross's executors, *vs.* Rittenhouse, and the unanimous opinion of the old congress, with the exception of the representatives of this state, and one of the representatives of New-Jersey might be mentioned. If reasons were required to strengthen the above decisions, those assigned by the committee of congress, upon the case of the Active, are believed to be conclusive.

But I think it will not be difficult to prove that the law of Pennsylvania, passed on the 9th of September, 1778, establishing a court of admiralty in that state, neither by the terms of it, nor by a fair construction of its meaning, was intended to abridge the jurisdiction of the court of appeals in cases like the one under consideration. The words are, "that the jury shall be sworn or affirmed to return a true verdict upon the libel according to evidence; and the finding of the jury shall establish the facts without re-examination or appeal." The obvious meaning of this provision was, that if the jury found the facts upon which the law was to arise, those facts were to be considered as conclusive by the appellate court, and not open to re-examination by the judges of that court; the legislature thinking it, no doubt, most safe to intrust the finding of facts to a jury of twelve men. But what was to be done, if the jury found no facts, as was the present case? If the appellate court were precluded from an enquiry into the facts, affirmance of the sentence appealed from would be inevitable. This absurdity then followed—In *all cases* it was necessary to impanel a jury to establish the facts, and in *all cases*, without exception, the party thinking himself aggrieved might appeal. But in every case where the jury chose to find a general verdict, the sentence appealed from must of necessity be affirmed. I cannot believe that this was the meaning of the legislature; and I do not think that the words of the law will fairly warrant such a construction.

Let me then put this question seriously to the jury: Will they have the vanity to think themselves wiser than all those who

have passed opinions upon this important *question of law*? and will they undertake to decide that those opinions were erroneous? Miserable indeed must be the condition of that community where the law is unsettled, and decisions upon the very point are disregarded, when they again come directly or incidently, into discussion. In such a state of things good men have nothing to hope, and bad men nothing to fear. There is no standard by which the rights of property, and the most estimable privileges to which the citizen is entitled can be regulated. All is doubt and uncertainty until the judge has pronounced the law of the particular case before him; but which carries with it no authority as to a similar case between other parties.

But suppose for a moment against the settled law upon the point, that the court of appeals had not a power to re-examine the verdict of the case of the Active; and on that account that the decree of the district court, in opposition to that of the court of admiralty was erroneous, it does not therefore follow that the district court had no jurisdiction of the case on which this process issued. If erroneous, it could only be re-examined and corrected in a superior court. But if the subject depended upon a question of prize or no prize, it was completely within the cognizance of the district court by the constitution and the laws of the United States; the former of which grants to the federal courts, and the latter to the district courts *cognizance of all civil causes of admiralty and maritime jurisdiction*. *This is such a case*; and we consider that circumstance to be decisive of the first point. We are happy on this occasion, as we are on all others to coincide in opinion with the learned and respectable gentleman who presides in the supreme judiciary of this state.*

* "It is unnecessary for me to give any opinion concerning the right of the old court of appeals to reverse the decision of justices, contrary to the provisions of the act of assembly of Pennsylvania, under which the state court of admiralty was instituted. That in the point which occasioned so much jealousy and heart-burning between several of the states and the old congress—it divided the opinions of many men of unquestionable talents and integrity, and certainly was a question of no small difficulty. But the state of Pennsylvania having ratified the present constitution, did thereby virtually invest the courts of the United States with power to decide this controversy. They have decided it, and being clearly within their jurisdiction, I am not at liberty to consider it as now open to discussion. The supreme court of the United States has more than once decided, that the old court of appeals had the power to reverse the verdicts of juries, notwithstanding the law of any state to the contrary. From the establishment of this prin-

The next ground of objection to the jurisdiction of the district court is, that the state of Pennsylvania claimed an interest in the subject in dispute between the parties to that cause.

The amendment to the constitution upon which this question occurs, declares that "the judicial power of the United States shall not be construed to extend to any suit in *law or equity* commenced or prosecuted *against one of the United States*, by citizens of another state, or by citizens or subjects of any foreign state." It is certain that the suit in the district court was not commenced or prosecuted against the state of Pennsylvania. She was in no respect a party to that suit. But it is contended that under a fair construction of this amendment, if a state claims an interest in the subject in dispute, the case is not cognizable in a federal court. In most cases it will be found that the soundest and safest rule by which to arrive at the meaning and intention of a law, is to abide by the words which the law maker has used. If he has expressed himself so ambiguously that the plain interpretation of the words would read to absurdity, and to a contradiction of the obvious intention of the law, a more liberal course may be pursued. But if upon any occasion the strict rule should be observed, it ought to be in expounding the constitution; although I do not mean to say that even in that case this rule should be inflexible. Every reason is opposed to the construction contended for by the defendants' counsel; and, to our apprehension, there is not one sound reason in favour of it. If the title to the thing in dispute be in the state, and this is made to appear to the court, it is inconceivable that the plaintiff should recover so as to disturb that right. But if he should recover, the state would not be bound by the judgement not being a party to it. This is by no means a new case—If one individual obtains a judgement or decree against another, the interest of a third person, not a party, will not be bound or prejudiced by the decision; but he may nevertheless assert his right in a court of justice against the party in possession of the property to which he claims title. The state cannot be forced into court; but she may come there, if she pleases, in pursuit of her rights, and will no doubt do so upon all proper and necessary occasions.—But if on the other hand, the mere claim of interest by a state, in the subject in dispute between two citizens, can have the ma-

ple, it irresistibly results, that Gideon Olmstead and his associates, were entitled to the whole proceeds of the Active and her cargo, and may pursue them into whatever hands they may have fallen, unless indeed they have fallen into the hands of persons not subject to an action in the court of the United States."—[Chief justice Tilghman's opinion on the writ of habeas corpus &c.]

gic effect of suspending all the functions of a court of justice over that subject, and of annihilating its decrees when pronounced, this effective and necessary branch of our government, and of all free governments, may be rendered useless, at any moment, at the pleasure of a state. If the suit be prosecuted against a state, the court perceives at once its want of jurisdiction, and can dismiss the party at the threshold. But if a latent claim in the state, not known perhaps by any of the litigant parties, is sufficient to oust the jurisdiction, to annul the judgement when rendered, and to affect all the parties concerned with the consequences of carrying a void judgement into execution, the federal courts may become more than useless—they will be traps in which unwary suitors may be ensnared to their ruin. To illustrate this position the district attorney mentioned many very strong and very supposable cases. I will add one other. A. sues B. for debt, or for property either real or personal in his possession. Conscious that he must pay the money, or lose his possession in consequence of the unquestionable title of his adversary, B. pays over the money, or conveys the property, even pending the suit, to a third person, for the use of the state, and by this operation arrests the further progress of the suit, or avoids the judgement whenever it shall pass. A doctrine so unjust, and big with consequences so alarming, and so fatal to the general government, should have strong and unequivocal words to support it. The court would be very mischievously employed in supplying them.—We should convert this amendment, this sacrifice made to state pride, into an engine to demolish altogether one of the essential branches of the general government.

To this branch of the argument, therefore, the answer is short but conclusive. The state is not a party, and she has no interest in the subject in dispute in the district court. The decree of the court of appeals extinguished the interest of Pennsylvania in any share of the Active and her cargo, and vested the full right to the whole in Olmstead and his associates, who might rightfully follow that part of the proceeds which came into the hands of the representatives of Rittenhouse, who held them as stakeholders for whoever might have title to them.—Rittenhouse himself held them in his private capacity and not as treasurer, for his individual security against the bond given to Ross, and which was still out-standing when this decree was rendered. I know not how this part of the subject can be made plainer.

There is another objection to the argument drawn from the interest of the state, which was not satisfactorily answered by Mr. Ingersoll, to whom it was stated by the court during this discussion. By the constitution of the United States, the judicial power extends to all controversies between a state and citi-

zens of another state, whatever might be the nature of the controversy, and no matter as to the court to which the cause might be assigned by the legislative distribution of the judicial powers. That amendment declares that the above provision shall not be construed to extend to any suit in *law or equity* commenced or prosecuted against a state by a citizen of another state or an alien. This was not *a suit at law or in equity*; but in a court of the law of nations and in a case of admiralty and maritime jurisdiction. The question put to the learned counsel, was, "is such a case excluded from the cognizance of the district court by this amendment?" The answer given was that the amendment ought to be so construed, this case being equally within the mischief meant to be remedied: That is—the court is bound to supply the words "or to cases of admiralty and maritime jurisdiction." Would we be justified by any rule of law in admitting such an interpolation, even if a reason could not be assigned for the omission of those words in the amendment itself? I think not. In our various struggles to get at the spirit and intention of the framers of the constitution, I fear that this invaluable charter of our rights would in a very little time be entirely construed away, and become at length so disfigured that its founders would recollect very few of its original features. But there appears to be a solid reason for the limitation of the amendment to cases at law and in equity. And this will throw some light upon the preceding branch of this argument. Suits at law and in equity cannot be prosecuted against a state without making her a party, and the judgement acts directly upon her. But in what manner was the execution to be made effectual? The subject was a delicate one, and it was thought best to avoid having it practically tested. But in cases of admiralty and maritime jurisdiction, the property in dispute is generally in the possession of the court or of persons bound to produce it or its equivalent, and the proceedings are *in rem*. The court decides in whom the right is, and distributes the proceeds accordingly.—In such a case the court need not depend upon the good will of a state claiming an interest in the thing, to enable it to execute its decree. All the world are parties to such a suit, and of course are bound by the sentence. The state may interpose her claim and have it decided.

But she cannot lie by, and after the decree is passed say she was a party, and therefore not bound for want of jurisdiction to the court. This doctrine in relation to the proceedings of a court of the law of nations, and in which all nations are interested might be productive of the most serious consequences to the general government, to whom is confided all our relations with foreign governments. As at present advised, then, we

think that the amendment to the constitution does not extend to suits of admiralty and maritime jurisdiction.

The second ground of jurisdiction is founded upon the orders of the governor of this state; issued as it is contended under the sanction of a law of the state. Whether the true meaning of that law has been mistaken or not, it would perhaps ill become this court to decide; but it will not, I trust, be deemed indecorous if we express a hope that it was so. It is more agreeable to think that an individual should have been mistaken in his judgement (and in this case we are bound to think that the error, if any, was not of the heart) than that the legislature should have intended so open an attack upon the constitution and government of the United States. But if such was the design of the law, we must lament the circumstance, and must, without reserve, pronounce it to be unconstitutional and void. Upon what is the law predicated? Upon the invalidity of the sentence of the district court. But have the people of the United States confided to the legislatures of the states, or even to that of the United States, the power to declare the judgements of the national courts null and void? could such a power be granted to them, without sapping the foundations of the government, and extinguishing the last spark of American liberty? It is a truth not to be questioned, that the power to declare the judgements of your courts void, can never be safely lodged with a body who may enforce its decision by the physical force of the people. This power necessarily resides in the judicial tribunals and can safely reside no where else. Whether a state court is competent to declare a judgement of a federal court void for want of jurisdiction, need not now be considered.—It may, however, be observed that admitting the right in the first instance, the ultimate decision of the question belongs to the supreme judicial tribunal of the nation, if that decision be required; for the judicial power extends to all cases arising under the constitution and the laws of the United States made in pursuance thereof; and the 25th section of the judicial law, with a view to secure to the national judiciary this important privilege, vests in the supreme court, a power to review and affirm or reverse the decision of the highest court of law or equity in a state, where a question depending upon the construction of any clause in the constitution, treaty or statute of the United States had been decided against the title, &c. claimed under the constitution, &c. It seems, however, that this power is considered as being unsafely lodged in the national courts because it may be abused for the purpose of drawing every case into the vortex of the federal jurisdiction. Whence can arise this jealousy? Have the judges of these courts, or of any courts, an interest in extending the sphere of their jurisdiction? Quite otherwise; as the

jurisdiction of the court is abridged the labour of the judge is diminished. Is it a privilege which is claimed for the advantage of the court, or of the individuals who compose it? By no means. It is the privilege of the citizen, and as long as I have the honour of a seat on the bench, I will consider myself as one of the guardians of this privilege (a very feeble one I acknowledge) and with a steady and unwarying eye, fixed upon the constitution as my guide, I shall march forward without entertaining the guilty wish to limit this privilege where the citizen may fairly claim it, or the desire, not less criminal, to enlarge its boundaries because it is claimed.

If, then, the validity of the decree of the district court be established upon the ground of reason—upon the basis of the constitution—in part upon the opinion of congress and decisions of the supreme, federal and state courts, more than once given, what follows? That the governor of this state had no power to order the defendants to array themselves against the United States, acting through its judicial tribunals, and the legislature of the state was equally incompetent to clothe him with such a power, had it so intended. The defendants were bound by a paramount duty to the government of the union, and ought not to have obeyed the mandate. There were but two modes by which the general government could assert the supremacy of its power on this occasion—by the peaceful interference of the civil authority, or by the sword. The first has been tried, and the defendants are now called to answer for their conduct before a jury of their country. Will any man be found bold enough to condemn this mode of proceeding, or complain that this alternative has been chosen? But if the accused can plead the orders of the governor, as a justification of their conduct, and if the sufficiency of such a plea is established, the civil authority is done away, its means are inadequate to its end, and force must be resorted to. Are we prepared for such a state of things? The doctrine appears to us monstrous; the consequences of it terrible. We regret that it was broached. It was contended that in a case where a state government authorizes resistance to the process of a federal court, though in a case wherein the court had competent jurisdiction, the only remedy in such an emergency is negociation. If there were no federal, no common head, this position might be admitted, and on the failure of the negotiations, the *ultima ratio* must be resorted to. But under our constitution of government, which declares the laws of the United States, made in pursuance of that instrument, the supreme law of the land, and which vests in the courts of the United States jurisdiction to try and decide particular cases, I am altogether at a loss to conceive how in the case stated, negotiations between the general and paramount government in

relation to the powers granted to it, and a state government can be necessary, and could even be proper. I speak not of the *power* but of the *right* of resistance.

But it is contended that the defendants, standing in the characters of subordinate officers to the governor and commander in chief of the state, were bound implicitly to obey his orders; and that although the orders were unlawful, still the officer and those under his command were justifiable in obeying them. This argument is imposing, but very unsound. In a state of open and public war, where military law prevails, and the peaceful voice of municipal law is drowned in the din of arms, great indulgencies must necessarily be extended to the acts of subordinate officers done in obedience to the orders of their superiors. But even there the order of a superior officer to take the life of a citizen, or to invade the sanctity of his house, and to deprive him of his property, would not shield the inferior against a charge of murder, or of trespass, in the regular judicial tribunals of the country.

In the case of Little and Bareme the supreme court felt every motive which would affect them as men, to excuse an unlawful act performed by a meritorious officer. He was at sea, without the possibility of consulting with counsel or others, as to the legality of the act he was about to execute, and which appeared to him to be authorized by the chief executive magistrate of the nation, in the instructions received from the navy department. Notwithstanding all these powerful pleas in his favor; pleas which were addressed strongly to the feeling of those who were to decide on this case, the supreme court conceived that the law of the land did not warrant the instructions given and consequently that the officer was not justified in what he did. I am not sure, but I am inclined to think, that he afterwards obtained relief from congress.

This is said to be a hard case, upon the defendants, because if they had refused obedience to the order of the governor they would have been punished by the state. I acknowledge it is a hard case, but with this you have nothing to do, if the law is against the defendants. It may however be observed that had the defendants refused obedience and been prosecuted before a military or state court, they ought to have been acquitted upon the ground that the orders themselves were unlawful and void, and we ought of course to suppose that they would have been acquitted.

We enter not into the political discussions which have been so ably conducted on both sides; but we admonish you to discard from your minds all political considerations; all party feelings, and all federal or state prejudices.—The questions involved in this case are in the highest degree momentous, and demand a

cool and dispassionate consideration. We rely upon your integrity and wisdom for a decision which you can reconcile to your consciences, and to the duties which you owe to GOD and to your country.

MONDAY, MAY 22.

This being the day appointed by law for the meeting of the eleventh Congress of the United States, the house came to order at 12 o'clock—and proceeded to the choice of a speaker.

First ballot 120 votes taken,

For Mr. Varnum	- - - - -	60
Macon	- - - - -	36
Pitkin	- - - - -	20
Nelson	- - - - -	1
Goldsborough	- - - - -	1
Blank ballots	- - - - -	2
		—
		120

This occasioned some conversation among the members, it being made a question whether Mr. Varnum had the majority. Without the two blank ballots he would be chosen; with them he would not.

After some time the clerk put the question, will the house proceed to a second ballot? It was carried in the affirmative.

And on the second ballot, 119 votes were taken.

For Mr. Varnum	- - - - -	65
Mr. Macon	- - - - -	45
Scattering	—	19

Mr. Varnum was declared to be chosen, and took the chair. The house then made choice of Patrick Magruder, Esqr. as Clerk.

Whole number of votes - - - - - 124

Mr. Magruder had	- - - -	63
Mr. Brent	- - - - -	28
Mr. Van Zandt	- - - - -	14
Scattering	- - - - -	29

Thomas Dunn was chosen Sergeant-at-arms, Thomas Claxton door keeper, and Benjamin Birch assistant door keeper.

PRESIDENT'S MESSAGE.

Washington City, May 23.

This day at 12 o'clock, the President of the United States communicated by Mr. Graham, the following message to both houses of Congress.

*Fellow citizens of the Senate and
Of the house of Representatives,*

On this first occasion of meeting you it affords me much satisfaction, to be able to communicate the commencement of a favourable change in our foreign relations; the critical state of which induced a session of congress at this early period.

In consequence of the provisions of the act interdicting commercial intercourse with G. Britain and France, our ministers at London and Paris were, without delay, instructed to let it be understood by the French and British governments, that the authority vested in the executive, to renew commercial intercourse with their respective nations, would be exercised in the cases specified by that act.

Soon after these instructions were dispatched, it was found that the British government, anticipating, from early proceedings of congress at their last session, the state of our laws, which has had the effect of placing the two belligerent powers on a footing of equal restrictions, and relying on the conciliatory disposition of the United States, had transmitted to their legation here, provisional instructions, not only to offer satisfaction for the attack on the frigate Chesapeake, and to make known the determination of his Britanic majesty, to send an envoy extraordinary with powers to conclude a treaty on all points between the two countries; but, moreover, to signify his willingness, in the mean time to withdraw his orders in council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

These steps of the British government led to the correspondence and the proclamation now laid before you; by virtue of which the commerce between the two countries will be renewable after the tenth day of June next.

Whilst I take pleasure in doing justice to the counsels of his Britanic majesty, which no longer adhering to the policy which

made an abandonment by France, of her decrees, a pre-requisite to a revocation of the British orders, have substituted the amicable course which has issued thus happily; I cannot do less than refer to the proposal heretofore made on the part of the United States embracing a like restoration of the suspended commerce, as a proof of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations, as corroborating the principles, by which the publick councils have been guided during a period of the most trying embarrassments.

The discontinuance of the British orders, as they respect the United States, having been thus arranged, a communication of the event has been forwarded, in one of our publick vessels, to our minister plenipotentiary at Paris; with instructions to avail himself of the important addition thereby made, to the considerations which press on the justice of the French government a revocation of its decrees, or such a modification of them, as that they shall cease to violate the neutral commerce of the United States.

The revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain, will doubtless engage the early attention of congress. It will be worthy, at the same time, of their just and provident care, to make such further alterations in the laws, as will more especially protect and foster the several branches of manufacture, which have been recently instituted or extended by the laudable exertions of our citizens.

Under the existing aspect of our affairs I have thought it not inconsistent with a just precaution, to have the gun boats, with the exception of those at New Orleans, placed in a situation, incurring no expense beyond that requisite for their preservation, and conveniency for future service; and to have the crews of those at New Orleans reduced to the number required for their navigation and safety.

I have thought also, that our citizens detached in quotas of militia, amounting to one hundred thousand, under the act of March 1808, might, not improperly, be relieved from the state in which they were held for immediate service. A discharge of them has been accordingly directed.

The progress made in raising and organizing the additional military force, for which provision was made by the act of April 1808, together with the disposition of the troops, will appear by a report which the secretary of war is preparing, and which will be laid before you.

Of the additional frigates required, by an act of the last session, to be fitted for actual service, two are in readiness, one nearly so, and the fourth is expected to be ready, in the month

of July. A report, which the secretary of the navy is preparing on the subject, to be laid before congress, will show at the same time the progress made in officering and manning these ships. It will show also the degree in which the provisions of the act, relating to the other publick armed vessels, have been carried into execution.

It will rest with the judgement of congress to decide how far the change in our external prospects may authorize any modifications of laws relating to the army and navy establishments.

The works of defence for our seaport towns and harbours have proceeded with as much activity, as the season of the year and other circumstances would admit. It is necessary, however, to state, that the appropriations hitherto made being found to be deficient, a further provision will claim the early consideration of congress.

The whole of the eight per cent stock remaining due by the United States, amounting to five millions three hundred thousand dollars, had been reimbursed on the first day of the year 1808. And on the first day of April last, the sum in the treasury exceeded nine and a half millions of dollars. This, together with the receipts of the current year, on account of former revenue bounds, will probably be nearly, if not altogether sufficient to defray the expenses of the year. But the suspension of exports and the consequent decrease of importations, during the last twelve months, will necessarily cause a great diminution in the receipts of the year 1810. After that year, should our foreign relations be undisturbed, the revenue will again be more than commensurate to all the expenditures.

Aware of the inconveniences of a protracted session, at the present season of the year, I forbear to call the attention of the legislature to any matters not particularly urgent. It remains therefore only to assure you of the fidelity and alacrity with which I shall co-operate for the welfare and happiness of our country; and to pray that it may experience a continuance of the divine blessings, by which it has been so signally favoured.

JAMES MADISON.